

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888**

IN RE: Petition Filing by the Cable Rules Study :
Committee Proposing to Alter CATV : Docket No. 2004-C-4
Service Areas :

REPORT AND ORDER

1. Introduction

On September 28, 2004, the “Cable Section” staff (hereafter “Advocacy Section”), within the Rhode Island Division of Public Utilities and Carriers (“Division”) filed a petition with the Administrator of the Division, pursuant to Section 2.2(a) and (b) of the Division’s *Rules Governing Community Antenna Television* (“CATV”) *Systems* (“Cable Rules”)¹ requesting that the Division implement the following alterations to the State’s existing CATV Service Areas:

1. Merge Service Area 13 into Service Area 1;
2. Merge Service Area 10 into Service Area 4;
3. Transfer West Greenwich, Exeter and North Kingstown from Service Area 8 to Service Area 6;
4. Transfer Jamestown from Service Area 8 to Service Area 7;
5. Transfer Narragansett and South Kingstown from Service Area 8 to Service Area 9; and

¹ The Division’s Cable Rules were recently amended on February 24, 2005. As the filing date of the instant petition pre-dated the February 24, 2005 promulgated amendments, the Division will apply the Cable Rules that were in effect at the time the instant petition was filed.

6. Renumber Service Areas 9 and 11 as Service Areas 8 and 9, respectively.²

Rhode Island currently has twelve CATV Service Areas, previously designated by the Division pursuant to Section 2.2 of the Cable Rules. The existing Service Areas, along with their respective constituent communities, are identified below:

Service Area 1 – Woonsocket, Smithfield, Lincoln, North Smithfield, Cumberland and Central Falls;

Service Area 2 – Providence and North Providence;

Service Area 3 – Cranston, Johnston, Scituate and Foster;

Service Area 4 – East Providence;

Service Area 5 – Barrington, Bristol and Warren;

Service Area 6 – Warwick, West Warwick, East Greenwich and Coventry;

Service Area 7 – Newport, Middletown, Portsmouth, Tiverton and Little Compton;

Service Area 8 – Narragansett, Jamestown, North Kingstown, South Kingstown, Exeter and West Greenwich;

Service Area 9 – Westerly, Richmond, Charlestown and Hopkinton;

Service Area 10 – Pawtucket;

Service Area 11 – New Shoreham; and

Service Area 13 – Burrillville and Glocester.³

In its petition, the Advocacy Section states that the genesis of the proposed Service Area alterations was predicated upon recommendations contained in a February 2, 2004 report that was submitted by the Cable Rules

² Advocacy Section Exhibit 1, p. 1.

³ Currently there is no Service Area 12.

Study Committee (“CRSC”) to the Administrator of the Division. To provide some background, the CRSC was formed by the Administrator of the Division in September 2001 for the purpose of recommending revisions to the Division’s Cable Rules, which were originally promulgated in 1981, and last amended in 1983. The Administrator recognized at the time that changes in technology and federal law over the last twenty-plus years had necessitated some updates to the Division’s Cable Rules. The CRSC eventually issued its findings and recommendations to the Administrator on February 2, 2004 in a document entitled “Report and Recommendations” (“*Recommendations*”). In its *Recommendations* report to the Administrator, the CRSC recommended, inter alia, that the Division implement the Service Area alterations contained in the Advocacy Section’s petition.⁴

In response to the petition filing, the Division issued a “Notice of Public Hearings” on October 7, 2004 and conducted eight public hearings in this docket, one hearing in each Service Area that would be altered under the CRSC’s recommendation.⁵ Direct notifications, pursuant to Section 2.3 of the Cable Rules, were also made to the municipalities and CATV system operators in the effected Service Areas. The hearings were conducted at the following locations: Burrillville Town Hall, on October 20, 2004 (Service Area 13); Lincoln Town Hall, on October 20, 2004 (Service Area 1); East Providence City

⁴ The CRSC’s *Recommendations* and the Division’s findings and decision relative to the Committee’s proposed revisions to the Cable Rules can be examined in Docket No. 2004-C-3 and Division Order No. 18131, issued on February 1, 2005.

⁵ Section 2.4 of the Cable Rules requires the Administrator to conduct at least one public hearing in each Service Area that would be affected by the proposed alternations. The hearing is required “to afford opportunity for public comment”.

Hall, on October 26, 2004 (Service Area 4); Pawtucket City Hall, on October 27, 2004 (Service Area 10); Newport City Hall, on November 4, 2004 (Service Area 7); South Kingstown Town Hall, on November 4, 2004 (Service Area 8); Westerly Town Hall, on November 9, 2004 (Service Area 9); and at the Division's hearing room, at 89 Jefferson Boulevard in Warwick, Rhode Island, on November 9, 2004 (Service Area 6). The following counsel entered appearances:

For the Division's Advocacy Section:	Leo J. Wold, Esq. Spec. Asst. Attorney General
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For Cox CoxCom, Inc., d/b/a Cox Communications ("Cox"):	Alan D. Mandl, Esq.
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For the New England Cable Television Association, Inc. ("NECTA"):	William D. Durand, Esq.
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2. Procedure For Adjudicating Service Area Alteration Cases

Section 2.4(b) of the Cable Rules sets forth the essential elements that must be considered by the Division when evaluating petitions for Service Area alterations. The Rule provides as follows:

In determining whether to approve or reject a petition requesting...alteration of a CATV service area, the Administrator shall consider the following:

(1) the communications needs and desires of the residents of the community, as expressed in needs assessment reports submitted pursuant to Section 2.6 herein;

(2) the prospects for the likelihood of development of CATV systems in areas within and contiguous to the proposed CATV service area, and what impact the proposed...expansion can be expected to have on those prospects;

(3) whether the proposed boundaries encompass any areas which would be more appropriately included [in] an adjacent CATV service area;

- (4) *the economic viability of a CATV system operated in the proposed CATV service area; [and]*
- (5) *any other factors deemed relevant by the petitioner or Administrator.*

Section 2.4(c) of the Cable Rules identifies the standard of proof that must be applied by the Division after it considers the aforementioned essential elements and all the evidence presented. This section provides that:

If after hearing and investigation the Administrator finds that to approve a proposal...to alter a previously designated service area, would be in the public interest, he shall grant the petition therefore.

Section 2.5 of the Cable Rules requires that the Division reduce its findings to a written decision, and that the decision contain minimum mandatory information. The details are provided below:

All CATV service area...alteration proceedings shall be terminated by a written order setting forth reasons why the petition was either approved or rejected. (Section 2.5(a)).

In addition, orders approving petitions for...alteration of CATV service areas shall include at a minimum the following:

- (1) the numerical designation of the service area;*
- (2) an identification of the boundaries of the service area;*
- (3) a provision specifying that portion of the service area in which service must be initially be made available;*
- (4) a provision incorporating by reference a final written report of the Citizens' Advisory Committee for that service area (required by Section 2.6 of these rules), and any other reports or documents considered in the proceeding;*
- (5) provisions setting forth any specifications, conditions, or requirements consistent with the public interest relating to the specific system which may be built in that service area. Such*

terms, conditions, and requirements shall be binding on all applicants for certificates in that service area; provided, however, that in the case of a service area being expanded, the terms, conditions, and requirements shall be binding upon the certificate holder for that service area; provided further that the certificate holder accepts an appropriately amended Certificate Order Certificate pursuant to Section 3.3 of these rules. (Section 2.5(b)).

3. Advocacy Section's Direct Case

The Advocacy Section's petition included seven sections of information that directly parallel the informational filing requirements set forth in Section 2.2(b) of the Cable Rules. A summary of this information, along with a corresponding reference to the specific Cable Rule is provided below:

A. Section 2.2(b)(1) – Identity of the Party Filing the Petition

The Advocacy Section stated that the petition was filed pursuant to the request of the CRSC, supra.

B. Section 2.2(b)(2) – Principal Contact

The Cable Section's Associate Administrator, Mr. Eric A. Palazzo, was identified as the individual to whom all contacts should be directed.

C. Section 2.2(b)(3) – U.S. Geodetic Survey Map (Or Equivalent) Showing Boundaries Of the Proposed CATV Service

The Advocacy Section proffered two maps "showing the current Service Area configurations and the boundaries of the proposed alterations".⁶

⁶ Advocacy Section Exhibit 1, "Exhibits 3 and 4".

D. Section 2.2(b)(4) – Population And Number of Dwelling Units In The Proposed Service Areas

The Advocacy Section proffered a table showing the population and number of dwelling units based on the 2000 census in the proposed Service Areas. The data was compiled from the Rhode Island Economic Development Corporation's website.⁷

E. Section 2.2(b)(5) – Population Density Or Other Information Which Will Demonstrate To The Administrator That All Areas In Which Service Is Or May Become Feasible Are Included In The Proposed Service Areas

In its petition, the Advocacy Section states that the State's Service Areas have already been built-out pursuant to the Cable Rules and that cable service is already provided in the areas reflected by the proposed alterations. Accordingly, the Advocacy Section concludes that cable service is 'feasible' in all of the proposed areas.⁸

F. Section 2.2(b)(6) – Financial Or Other Information Which Assist The Administrator In Determining The Financial Viability Of The CATV System In The Proposed Service Areas.

The Advocacy Section claims that Cox is the only cable operator that is truly impacted by the proposed Service Area alterations. The Advocacy Section asserts that Cox does not object to the proposed changes "as they produce long-term savings for both Cox and ratepayers".⁹ The Advocacy Section therefore concludes that the proposed changes do not threaten the financial

⁷ Id., p. 2 and "Exhibit 5".

⁸ Id., p. 3 and "Exhibits 3 and 4".

⁹ Id., p. 3.

viability of Cox's Rhode Island operations. A copy of Cox's 2003 Annual Report to the Division was provided in support of the Advocacy Section's assertion.¹⁰

G. Section 2.2(b)(7) – Statement Supporting Alteration Requests

The Advocacy Section explains that the instant proposal was borne out of the work performed by the CRSC in response to the Administrator's request that the Committee perform a 'comprehensive evaluation of the rules', supra. The Advocacy Section relates that among its recommendations, the CRSC proposed maintaining the requirement that every Service Area maintain one local business office and one fixed public access studio with production capability. The Advocacy Section notes that these requirements are currently mandated under Sections 13.1(a) and 14.2(a) of the Cable Rules. The Advocacy Section contends that the CRSC believes that maintaining both of these types of facilities in each Rhode Island Service Area ensures that the cable system operators will continue to satisfy community programming needs and customer concerns. The Advocacy Section states that at the same time, the CRSC "recognizes that cable ratepayers ultimately pay the expenses associated with public access studios and local business offices".¹¹ The Advocacy Section points out that Cox is currently charging basic tier ratepayers \$.5003 per month for public access studio and equipment expenses and \$.5135 per month

¹⁰ Id., and "Exhibit 6".

¹¹ Id., pp. 3-4.

for local business office or “front counter” expenses.¹² The Advocacy Section reports that these combined charges, in all Service Areas, result in an annual cost to ratepayers of \$3,375,154.¹³ Predicated on these expenses, the Advocacy Section relates that the CRSC believes the Division should reexamine the rationale for requiring ratepayers to assume the burden of these expenses with regard to facilities that have exhibited an historic lack of use.

In further support of this position, the Advocacy Section notes that the CRSC also considered the “increasing competition from satellite television providers”, which the Advocacy Section describes as unregulated competitors that are not required to maintain multiple public access studios and business offices in Rhode Island. The Advocacy Section claims this outside competition demands that the Division also “assess whether even heavily utilized studios and local business offices merit consolidation in some fashion”.¹⁴

In furtherance of advancing the CRSC’s recommendation, the Advocacy Section stated that it examined the historic usage at all twelve of the State’s public access studios as well as the traffic and functions performed by each local business office. The actual data that was examined was included as part of the petition filing.¹⁵ The Advocacy Section states that the data reflects that the public generally does not utilize the public access studios in Service Areas

¹² Id., p. 4. Also, after the record had closed in this docket, the hearing officer discovered that the petition filing contained an error in the way these two monthly costs were illustrated. Specifically, \$.5003 was depicted as “.5003 cents” in the petition and \$.5135 was depicted as “.5135 cents” in the petition. Upon discovering the perceived mistake, the hearing officer contacted counsel for the Advocacy Section to verify that an error had been made. The Advocacy Section has since acknowledged the error.

¹³ Id.

¹⁴ Id., p. 4.

¹⁵ Id. and “Exhibits 7 and 8”.

8 and 13. As for the business offices located in Service Areas 8 and 13, the Advocacy Section maintains that the business offices located in adjacent Service Areas can provide comparable services. The Advocacy Section thereupon espoused the CRSC's recommendation to merge Service Area 13 into the geographically contiguous region of Service Area 1. The Advocacy Section noted that the existing local business office and public access studio in Lincoln, Rhode Island would serve all customers in the new Service Area 1.

For Service Area 8, the Advocacy Section stated that the CRSC proposes dividing Service Area 8 into three town subgroups and merging each subgroup with its geographically proximate Service Area. Under the proposal, West Greenwich, Exeter and North Kingstown would be included into existing Service Area 6 and be served by the public access studio located at CCRI, and the business office located at the Warwick Mall, both facilities being in the city of Warwick. Jamestown would be included in existing Service Area 7 and be served by the public access studio and local business office in Portsmouth. Finally, Narragansett and South Kingstown would be included in existing Service Area 9 and be served by the local business office and public access studio located in Westerly.¹⁶ The Advocacy Section noted that the CRSC consulted with the active Service Area Advisory Committees impacted by these proposed alternations and that no advisory committee expressed opposition to the proposed changes.

¹⁶ Id., p. 5.

The Advocacy Section next addressed the CRSC's recommendation to merge Service Area 10 and Service Area 4. The Advocacy Section observed that the public access studios for Service Areas 10 and 4 are located at 670 Narragansett Park Drive, in Pawtucket, and 565 Taunton Avenue, in East Providence, respectively. The Advocacy Section noted that these two studios are located approximately 5 miles apart, and that members of the public actively utilize both studios.¹⁷

The Advocacy Section indicated that principally due to the geographical proximity between the two facilities, the CRSC believes that some ratepayer savings can be achieved if these two facilities are consolidated. The Advocacy Section stated that the CRSC further believes that the consolidation can be accomplished with "little loss of convenience to customers or negative impact to public access users".¹⁸ The Advocacy Section indicated that the Service Area 4 Citizen's Advisory Committee was consulted on this proposal, and that the Service Area 4 Committee is "amenable to facility consolidation provided that the existing staff, studio production facilities, etc. at the existing East Providence facility is transferred to or expanded in the new single facility."¹⁹ The Advocacy Section also stated that Cox has declared that it would use its existing business office in Pawtucket to serve both Service Areas after consolidation.

¹⁷ Id., p. 6.

¹⁸ Id.

¹⁹ Id.

In its final comments, the Advocacy Section noted that since Service Areas 8, 10 and 13 would be merged into other Service Areas under the CRSC's recommendations, it would be necessary to renumber two of the existing Service Areas. Specifically, the Advocacy Section suggested that Service Area 9 be re-designated as Service Area 8 and that Service Area 11 be re-designated as Service Area 9. The Advocacy Section notes that if the Division accepts the CRSC's recommendations, the total number of Service Areas, public access studios and local business offices in the State will be reduced from twelve to nine.

4. Public Comments

Albeit they entered appearances, neither Cox nor NECTA requested to intervene in this docket. Cox, however, offered comments and expressed support for the CRSC's recommendations and the Advocacy Section's petition.²⁰

Additionally, nine individuals appeared at the scheduled hearings conducted in this docket to offer public comment, including Mr. Thomas Chinigo, the Chairman of the Service Area 9 Citizens' Advisory Committee, and Mr. Erwin Setzer, a member of the Service Area 4 Citizens' Advisory Committee. Unfortunately, most of the comments made by these nine individuals were about matters that transcended the scope of the proposals contained in the instant petition. The tenor of their relevant comments is summarized below:

²⁰ See transcript from October 20, 2004 hearing conducted in Burrillville, Tr. 7-9; and transcript from October 26, 2004 hearing conducted in East Providence, Tr. 4-7.

- The Chairman of the Service Area 9 Citizens' Advisory Committee, Mr. Thomas Chinigo, expressed support for the instant petition.

- One individual expressed concern about whether there would be sufficient studio space and equipment available to the public access community after Service Areas 4 and 10 are merged.

- One individual contended that Cox has been remiss in its support for public access, and that a reduction in Service Areas would further reduce support for public access in Rhode Island. This same individual opined that there would be greater use of the existing studios today had Cox done a better job of educating the public on the existence and use of these studios.

- Another individual rejected the notion of closing any studios, even if the studio(s) are not currently being used. This individual felt that with better "advertisement", usage at all studios would improve.

Full Channel TV, Inc. ("Full Channel"), a cable television operator authorized by the Division to provide CATV services in Service Area 5, filed written comments in this docket. These comments were filed out-of-time on November 30, 2004, with permission from the hearing officer. Additionally, on December 30, 2004, Full Channel filed a "Motion to Intervene" in the instant docket, which the Division will address, infra.

Full Channel's comments are summarized below:

- Full Channel recommends that the Advocacy Section's proposal to alter Service Areas be delayed until such time as (1) the appeals that Full Channel is pursuing in Superior Court against the Division's decisions granting

Cox authority to provide cable television services in Service Area 5 has been fully resolved²¹; and (2) the Division issues a decision in Docket No. 2000-C-7, a docket that was established in response to a petition filing from Cox regarding Cox's regulatory obligations under Section 7.3 of the Cable Rules (Institutional/Industrial Network).²²

- Full Channel contends that the CRSC and the Advocacy Section were remiss in not considering alternatives to the Service Area alterations being proposed. As an example, Full Channel observes that Service Areas 4 and 5 and 10 could have been merged.²³

- Full Channel questions whether the proposed Service Area alterations are in the public interest. Full Channel states: "it seems that several large areas will be sharing a public access studio, which means significant travel time for some residents..." Full Channel questions whether "these studios and payment counters [will] be significantly [sic] staffed and equipped to handle the increase of residents..."²⁴

- Full Channel maintains that the proposed alterations benefit Cox more than the ratepayers, and are therefore not in the public interest.²⁵

- Full Channel questioned the "composition" of the CRSC, and claims that the makeup of the CRSC was unfair to Full Channel.

²¹ The appeals in issue relate to several decisions previously issued by the Division in Docket No. 2000-C-5, which granted Cox the necessary certificates to overbuild Service Area 5 and to compete with Full Channel in that service area.

²² Full Channel's November 30, 2004 "Memorandum of Full Channel TV, Inc. on the Petition to Alter Service Areas", p. 1.

²³ Id., pp. 1-2.

²⁴ Id., p. 2.

²⁵ Id., pp. 2-3.

- Full Channel contends that the Division should have performed an educational outreach to the public and to elected officials and civic groups (including surveys) before conducting a hearing on the instant petition filing.²⁶
- Full Channel suggests that there was little usage at some studios due to Cox's failure to promote public access.²⁷
- Full Channel observes that its authorized Service Area (Service Area 5) has the least number of "homes passed" of any of the Service Areas, and questions why its Service Area was not combined with another Service Area.²⁸

5. Findings

As a preliminary matter, before addressing the merits of the Advocacy Section's petition, the Division will attend to Full Channel's motion to intervene. Full Channel received notification of the instant petition filing through the "Notice of Public Hearings" that was sent directly to them from the Clerk of the Division's Cable Section, a direct notification which the Division's Cable Section routinely provides cable television operators in CATV-related docket proceedings. The same notice of hearing was published in the Providence Journal on October 7, 2004. Additionally, Full Channel's General Manager, Mr. Michael Davis, was a CRSC member, who was privy to the CRSC's work and ultimate compilation of recommendations. In short, Full Channel was, or should have been, aware for some substantial time prior to

²⁶ Id., p. 4.

²⁷ Id.

²⁸ Id., p.5

the first hearing conducted in this docket that the CRSC would be requesting the Division to consider the Service Area alteration proposals identified herein and that the Division would be conducting public hearings on the matter.

Nonetheless, Full Channel either consciously opted not to seek to participate in this matter in a timely fashion, or it inexplicably lost track of the proceeding. Either way, Full Channel never filed a timely motion to intervene, or timely comments in this docket. Indeed, Full Channel was only permitted to file comments in this docket after it requested, and was granted, special leave to submit late comments from the hearing officer. Interestingly, no mention of intervention was raised by Full Channel when it requested permission to file late comments in this docket. As a courtesy to Full Channel, the hearing officer agreed to permit it to file written comments three weeks after the Division concluded its eighth and final public hearing in the docket.²⁹ Unexpectedly, a full month after it filed its tardy comments, Full Channel filed a motion to intervene.

Frankly, the Division is amazed by Full Channel's behavior in this docket. It's not bizarre enough that Full Channel missed or ignored the notifications it received in this docket, but even after being permitted to submit written comments significantly out-of-time, it decided to file a relatively meaningless motion to intervene a full month after it filed its late comments. In view of the fact that the Division has already agreed to accept Full Channel's written comments as tantamount to having been made by Full Channel's

²⁹ The last public hearing in this docket was conducted on November 9, 2004. Full Channel filed its comments three weeks later on November 30, 2004.

attorney at the hearing(s), not unlike the comments made by Cox's attorney at the hearings (Cox never requested Intervenor status in this docket either), coupled with the pointlessness of granting such a late intervention at this time, the Division must deny Full Channel's motion.

The Division has thoroughly examined the record in this docket and has fully considered the comments offered by the individuals and cable operators who participated in this proceeding. The Division has also applied the relevant law, as contained in the Division's Cable Rules. Predicated upon this aggregate evaluation, the Division finds that the Advocacy Section's (and CRSC's) proposed Service Area alterations are reasonable and in the public interest.

In reaching this conclusion the Division considered the essential elements enumerated in Section 2.4(b) of the Cable Rules. An analysis is summarized below:

- As the State's active Citizens' Advisory Committees assisted the CRSC in its review of the Cable Rules and/or offered comments in this docket, the Committees opted to not submit the "needs assessment reports" as described in Sections 2.4(b)(1) and 2.6 of the Cable Rules;
- The Division has determined that Section 2.4(b)(2) is inapplicable due to the fact that there is already ubiquitous cable television service in the Service Areas affected by the proposed alterations;
- After performing a Section 2.4(b)(3) evaluation, the Division found no evidence on the record to support a conclusion that the proposed

boundaries encompass any areas which would be more appropriately included [in] an adjacent CATV service area;

- After performing a Section 2.4(b)(4) evaluation, the Division found that the economic viability of the CATV system operating in the Service Areas in issue (i.e. Cox) would not be adversely impacted by the proposed alterations. In fact, the evidence suggests that Cox's economic viability would be enhanced by the CRSC's proposed service area modifications. Similarly, the Division found no evidence that Full Channel, currently operating exclusively in Service Area 5, would be adversely impacted by the proposed alterations.

The Division also considered the public comments offered by those individuals attending the public hearings, and those submitted by Full Channel on November 30, 2004. While many of these comments represented expressions of legitimate concern, the Division finds ample protections built into the State's General Laws and the Cable Rules to safeguard ratepayers and the public access community from a potential degradation of service.

For example, with respect to the individual who expressed concern about whether there would be sufficient studio space and equipment available to the public access community after Service Areas 4 and 10 are merged (a concern initially shared by the Service Area 4 Citizens Advisory Committee), the Division notes that it possesses broad authority under the law to require

certificated cable television operators to augment public access-related facilities and equipment when deemed necessary and appropriate.³⁰

With respect to those individuals who lament over the closing of any public access studios, the Division unfortunately must find that the data associated with usage of the studios in Service Areas 8 and 13 speaks for itself. The record reflects that it no longer makes economic sense for ratepayers to support facilities that are virtually unused and empty. Based on this reality, the Division must find the proposed mergers of these studios in the public interest.

The same economic logic applies to the consolidation of Service Areas 4 and 10. Twenty-five years ago, a decision was made to constitute the contiguous cities of East Providence and Pawtucket as separate CATV Service Areas. That decision predated the existence of cable services in those communities, and was no doubt fashioned as a way of expediting the construction of CATV systems in those cities. Today, cable television service pervades the streets of East Providence and Pawtucket. Public access studios currently exist in both cities, separated by only a few miles of travel distance. The CRSC, the Advocacy Section, Cox and the Service Area 4 Citizens Advisory Committee, which is very active in the city of East Providence, all support the proposed consolidation. Based on the evidence of record, the Division finds that the proposal to consolidate these two Service Areas makes economic and practical sense and consequently is in the public interest.

³⁰ See R.I.G.L. §39-19-6 and Section 1.3 of the Cable Rules; also see: Berkshire Cablevision of Rhode Island, Inc. v. Burke, 488 A.2d 676 (R.I. 1985).

In response to Full Channel's comments, the Division finds insufficient justification to either delay or reject the implementation of the proposals contained in the Advocacy Section's petition. Full Channel argues that the Division should delay any decision on the instant petition filing until such time as the appeals it has filed in two unrelated dockets have been resolved in the Courts. The dockets in question involve several decisions previously issued by the Division in Docket Nos. 2000-C-5 and D-01-1, which authorized Cox to overbuild Rhode Island's CATV Service Area 5, Full Channel's authorized service area. The Division finds this request unreasonable as Full Channel's appeals involve issues that are completely unrelated to the Service Area alterations proposed herein, and further because the appeals of which Full Channel speaks have been pending for several years, and which, in the opinion of the Division, have little chance for success.

Full Channel has additionally argued for a delay until such time as the Division has issued a decision in Docket No. 2000-C-7, an unrelated docket that involves an examination of Cox's regulatory obligations under Section 7.3 of the Rules. The Division notes that it issued a decision in Docket No. 2000-C-7 on January 27, 2005. Therefore, Full Channel's concern regarding the timing of this report and order vis à vis the Division's decision in Docket No. 2000-C-7 is no longer relevant.

With respect to Full Channel's other comments, the Division must find the totality of Full Channel's criticisms self-serving and devoid of evidentiary support. Full Channel appears to be more interested in attacking Cox and

expanding its own operating territory than engaging in a sincere discussion regarding the propriety of the Advocacy Section's (and CRSC's) Service Area alteration proposals. Regarding Full Channel's alternative proposal to combine Service Areas 4, 5 and 10, the Division finds no support for such a proposal in the record.

Accordingly, it is

(18170) ORDERED:

1. That the Advocacy Section's September 28, 2004 petition filing, which requests that the Division implement the following alterations to the State's existing CATV Service Areas, is hereby approved:

- Merge Service Area 13 into Service Area 1;
- Merge Service Area 10 into Service Area 4;
- Transfer West Greenwich, Exeter and North Kingstown from Service Area 8 to Service Area 6;
- Transfer Jamestown from Service Area 8 to Service Area 7;
- Transfer Narragansett and South Kingstown from Service Area 8 to Service Area 9; and
- Renumber Service Areas 9 and 11 as Service Areas 8 and 9, respectively.

2. The numerical designation and boundary parameters of the nine newly altered Service Areas shall be consistent with the proposal contained in

the Advocacy Section's September 28, 2004 petition filing.³¹

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON MARCH 9, 2005.

John Spirito, Jr., Esq.
Hearing Officer

Thomas F. Ahern
Administrator

³¹ The map attached to Advocacy Section Exhibit 1, proffered to graphically depict the proposed alternations is useful in identifying the new numerical designations and boundary parameters.